

AMENDED IN ASSEMBLY AUGUST 24, 2012

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL

No. 1239

Introduced by Senator Price Wright

(Coauthor: Senator Price)

(Coauthors: Assembly Members Bradford, Eng, and Roger Hernández)

February 23, 2012

An act to amend Sections 4928, 4934, and 4939 of the Business and Professions Code, relating to professions and vocations Section 53750 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1239, as amended, ~~Price Wright. Acupuncture. Local government: assessments, fees, and charges.~~

Articles XIII C and XIII D of the California Constitution generally require that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Articles XIII C and XIII D of the California Constitution and defines various terms for these purposes.

This bill would additionally define the term “real property” for purposes of the Proposition 218 Omnibus Implementation Act.

~~Existing law, the Acupuncture Licensure Act, provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board. Existing law authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1,~~

~~2013. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.~~

~~This bill would extend the operation of these provisions until January 1, 2015. The bill would instead specify that the board would be subject to review by the appropriate policy committees of the Legislature.~~

~~Existing law requires the board, on or before January 1, 2004, to establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist. Under existing law, within 3 years of initial approval by the board, each program approved by the board is required to receive full institutional approval by the Bureau for Private Postsecondary Education, which is responsible for, among other things, providing approval to operate private postsecondary institutions according to specified minimum operating standards.~~

~~This bill would provide the board with ongoing authority to establish those standards. The bill would also update references to provisions providing for the approval by the bureau to operate private postsecondary institutions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 53750 of the Government Code is
2 amended to read:

3 53750. For purposes of Article XIII C and Article XIII D of
4 the California Constitution and this article:

5 (a) “Agency” means any local government as defined in
6 subdivision (b) of Section 1 of Article XIII C of the California
7 Constitution.

8 (b) “Assessment” means any levy or charge by an agency upon
9 real property that is based upon the special benefit conferred upon
10 the real property by a public improvement or service, that is
11 imposed to pay the capital cost of the public improvement, the
12 maintenance and operation expenses of the public improvement,
13 or the cost of the service being provided. “Assessment” includes,
14 but is not limited to, “special assessment,” “benefit assessment,”
15 “maintenance assessment,” and “special assessment tax.”

1 (c) “District” means an area that is determined by an agency to
2 contain all of the parcels that will receive a special benefit from a
3 proposed public improvement or service.

4 (d) “Drainage system” means any system of public
5 improvements that is intended to provide for erosion control,
6 landslide abatement, or for other types of water drainage.

7 (e) “Extended,” when applied to an existing tax or fee or charge,
8 means a decision by an agency to extend the stated effective period
9 for the tax or fee or charge, including, but not limited to,
10 amendment or removal of a sunset provision or expiration date.

11 (f) “Flood control” means any system of public improvements
12 that is intended to protect property from overflow by water.

13 (g) “Identified parcel” means a parcel of real property that an
14 agency has identified as having a special benefit conferred upon
15 it and upon which a proposed assessment is to be imposed, or a
16 parcel of real property upon which a proposed property-related
17 fee or charge is proposed to be imposed.

18 (h) (1) “Increased,” when applied to a tax, assessment, or
19 property-related fee or charge, means a decision by an agency that
20 does either of the following:

21 (A) Increases any applicable rate used to calculate the tax,
22 assessment, fee or charge.

23 (B) Revises the methodology by which the tax, assessment, fee
24 or charge is calculated, if that revision results in an increased
25 amount being levied on any person or parcel.

26 (2) A tax, fee, or charge is not deemed to be “increased” by an
27 agency action that does either or both of the following:

28 (A) Adjusts the amount of a tax or fee or charge in accordance
29 with a schedule of adjustments, including a clearly defined formula
30 for inflation adjustment that was adopted by the agency prior to
31 November 6, 1996.

32 (B) Implements or collects a previously approved tax, or fee or
33 charge, so long as the rate is not increased beyond the level
34 previously approved by the agency, and the methodology
35 previously approved by the agency is not revised so as to result in
36 an increase in the amount being levied on any person or parcel.

37 (3) A tax, assessment, fee or charge is not deemed to be
38 “increased” in the case in which the actual payments from a person
39 or property are higher than would have resulted when the agency
40 approved the tax, assessment, or fee or charge, if those higher

1 payments are attributable to events other than an increased rate or
2 revised methodology, such as a change in the density, intensity,
3 or nature of the use of land.

4 (i) “Notice by mail” means any notice required by Article XIII C
5 or XIII D of the California Constitution that is accomplished
6 through a mailing, postage prepaid, deposited in the United States
7 Postal Service and is deemed given when so deposited. Notice by
8 mail may be included in any other mailing to the record owner
9 that otherwise complies with Article XIII C or XIII D of the
10 California Constitution and this article, including, but not limited
11 to, the mailing of a bill for the collection of an assessment or a
12 property-related fee or charge.

13 (j) *“Real property” means any real property interest in land*
14 *and any water rights that are based on the ownership of a real*
15 *property interest in land. “Real property” shall not include*
16 *appropriative or prescriptive water rights in land that are not*
17 *based on the ownership of a real property interest in land. This*
18 *section shall not be construed to affect the definition of real*
19 *property contained in Section 658 of the Civil Code, nor shall it*
20 *be construed to revise, modify, or alter in any manner any judicial*
21 *decision relating to Section 658 of the Civil Code.*

22 ~~(j)~~

23 (k) “Record owner” means the owner of a parcel whose name
24 and address appears on the last equalized secured property tax
25 assessment roll, or in the case of any public entity, the State of
26 California, or the United States, means the representative of that
27 public entity at the address of that entity known to the agency.

28 ~~(k)~~

29 (l) “Registered professional engineer” means an engineer
30 registered pursuant to the Professional Engineers Act (Chapter 7
31 (commencing with Section 6700) of Division 3 of the Business
32 and Professions Code).

33 ~~(l)~~

34 (m) “Vector control” means any system of public improvements
35 or services that is intended to provide for the surveillance,
36 prevention, abatement, and control of vectors as defined in
37 subdivision (k) of Section 2002 of the Health and Safety Code and
38 a pest as defined in Section 5006 of the Food and Agricultural
39 Code.

40 ~~(m)~~

1 (n) “Water” means any system of public improvements intended
2 to provide for the production, storage, supply, treatment, or
3 distribution of water.

4 SEC. 2. *The amendment of Section 53750 of the Government*
5 *Code made by this act does not constitute a change in, but is*
6 *declaratory of, existing law.*

7 SECTION 1. ~~Section 4928 of the Business and Professions~~
8 ~~Code is amended to read:~~

9 ~~4928. The Acupuncture Board, which consists of seven~~
10 ~~members, shall enforce and administer this chapter.~~

11 ~~This section shall remain in effect only until January 1, 2015,~~
12 ~~and as of that date is repealed, unless a later enacted statute, that~~
13 ~~is enacted before January 1, 2015, deletes or extends that date.~~

14 ~~Notwithstanding any other law, the repeal of this section renders~~
15 ~~the board subject to review by the appropriate policy committees~~
16 ~~of the Legislature.~~

17 SEC. 2. ~~Section 4934 of the Business and Professions Code is~~
18 ~~amended to read:~~

19 ~~4934. (a) The board, by and with the approval of the director,~~
20 ~~may employ personnel necessary for the administration of this~~
21 ~~chapter, and the board, by and with the approval of the director,~~
22 ~~may appoint an executive officer who is exempt from the~~
23 ~~provisions of the State Civil Service Act (Part 2 (commencing with~~
24 ~~Section 18500) of Division 5 of Title 2 of the Government Code).~~

25 ~~(b) This section shall remain in effect only until January 1, 2015,~~
26 ~~and as of that date is repealed, unless a later enacted statute, that~~
27 ~~is enacted before January 1, 2015, deletes or extends that date.~~

28 SEC. 3. ~~Section 4939 of the Business and Professions Code is~~
29 ~~amended to read:~~

30 ~~4939. (a) The board shall establish standards for the approval~~
31 ~~of schools and colleges offering education and training in the~~
32 ~~practice of an acupuncturist, including standards for the faculty in~~
33 ~~those schools and colleges and tutorial programs, completion of~~
34 ~~which will satisfy the requirements of Section 4938.~~

35 ~~(b) Standards for the approval of training programs shall include~~
36 ~~a minimum of 3,000 hours of study in curriculum pertaining to the~~
37 ~~practice of an acupuncturist. This subdivision shall apply to all~~
38 ~~students entering programs on or after January 1, 2005.~~

39 ~~(c) Within three years of initial approval by the board, each~~
40 ~~program so approved by the board shall receive full institutional~~

1 approval under Article 6 (commencing with Section 94885) of
2 Chapter 8 of Part 59 of Division 10 of Title 3 of the Education
3 Code in the field of traditional Asian medicine, or in the case of
4 institutions located outside of this state, approval by the appropriate
5 governmental educational authority using standards equivalent to
6 those of Article 6 (commencing with Section 94885) of Chapter
7 8 of Part 59 of Division 10 of Title 3 of the Education Code, or
8 the board's approval of the program shall automatically lapse.

O